

**Remarks**

Claims 1-12 are pending. With this Response, claims 1, 2, 4, and 5 are amended. Claims 1-12 are pending in the above-cited application upon entry of the current amendments.

Applicant requests reconsideration and allowance of the application in view of the present amendments and following remarks, which are considered to be fully responsive to the pending Office Action.

The claim amendments are fully supported by the application as originally filed.

Support for amended claim 1 can be found in the specification at, for example, page 2, lines 25-28, page 3, lines 4-6, and page 6, line 18.

Support for amended claim 2 can be found in the specification at, for example, page 3, lines 4-6.

Claims 4 and 5 are amended to depend from claim 1.

**Claim Rejections – 35 U.S.C. § 102**

Claims 1 and 8-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by the Rashid reference (U.S. Pub. No. 2001/0006165).

Applicant respectfully traverses this rejection because the Rashid reference does not teach a container having a layer of shrinkwrap that is formed to and that clings to at least a portion of the tapered side wall of the container, and that is formed to, covers, and conforms to the shape of the surface discontinuity of the container.

The present invention provides a combination of a tapered container and shrink wrap, wherein the container has one or more feature(s) that allow the shrink wrap to cling to the tapered sidewall, especially in the cases where the container is subjected to cold temperatures, e.g., stored in a freezer, or in some embodiments after part of the shrinkwrap has been torn and separated from the lid and rim of the container and the lid has been opened. By including a surface discontinuity disposed on the side wall intermediate the rim and bottom of the container such that the shrinkwrap forms to, covers, and conforms to the surface discontinuity, it is possible for the shrinkwrap to be retained against the tapered side wall under a wide range of circumstances. Adhesives, tapes, etc., are unnecessary but could be used if desired.

This is especially useful in embodiments in which a layer of shrink wrap is initially wrapped around a container to help seal a lid to the container, thereby protecting the integrity of the contents. In such instances, the layer of shrinkwrap typically is also formed to at least a portion of the top/lid of the container. To open the container, the shrinkwrap is torn or otherwise removed from at least portions of the lid to help gain access to the inside of the container. Conventionally, the shrinkwrap falls from the tapered container side wall after this, and it must often be discarded. If any adhesive free labels are held in place under the wrap, these will tend to fall off, too. Or, other labels or packaging features may be exposed to damage when no longer protected by the shrinkwrap.

The present invention avoids these kinds of conventional problems. In the present invention, the shrink wrap generally stays in place. Labels or other packaging items will tend to be held in place and/or protected by the wrap.

Rashid fails to teach or suggest the claimed combination. Instead, the bottle 10 in the Rashid reference has a neck portion 16 that extends downward and outward from the container top end 12 and that widens and eventually extends into body portion 20, which extends downward to the bottom or base 28 in a way that provides an even surface (See the Rashid reference at paragraphs 19 and 22, and FIG. 1). Such a bottle configuration does not teach a container that has a side wall that tapers from top to bottom. Lacking such a taper, what motivation does Rashid offer to develop a combination that helps to hold shrink wrap onto the tapered walls of a container when Rashid has no such walls”

Indeed, the Rashid reference does not disclose “a layer of shrinkwrap,” as required in amended claim 1.

As a further shortcoming, Rashid necessarily fails to teach a feature on a tapered container that helps hold shrink wrap in place.

Rashid thus fails to teach or suggest any aspect of the claimed combination at issue.

Accordingly, Applicant submits that claims 1 and 8-10 are patentable over the Rashid reference and requests that the rejection of these claims under 35 U.S.C. § 102(e) as being anticipated by the Rashid reference be withdrawn.

Claims 1, 2, and 6 stand rejected under 35 U.S.C. §102(b) as being anticipated by the Erlandson reference (U.S. Pat. No. 4,183,441).

Applicant respectfully traverses this rejection because the Erlandson reference does not teach the combination of a container having a side wall that tapers from top to bottom, a shrink wrap, and a feature on the container that helps secure the wrap on the tapered side wall as required in claim 1. According to the Erlandson reference, the container 5 “is simply formed of two container halves 6 and 7, each of which is of a cup-shaped configuration ....” (See the Erlandson reference at col. 1, lines 60-64). In Fig. 1 of the Erlandson reference, container 5 is generally cylindrical in shape, where the upper and lower regions are roughly the same diameter and the mid region is of a smaller diameter. Such a bottle configuration does not teach a container that has a side wall that tapers from top to bottom and there is no other indication that Erlandson discloses a container having a side wall that tapers from top to bottom.

Keeping in mind that an objective of the invention is to use shrink wrap in combination with tapered containers in a manner so that the shrink wrap stays in place under a wide range of conditions, and given that Erlandson does not involve tapered containers, there is no motivation or suggestion to modify the container in the Erlandson reference to have the claimed combination.

Accordingly, Applicant submits that claims 1, 2, and 6 are patentable over the Erlandson reference and requests that the rejection of these claims under 35 U.S.C. § 102(b) as being anticipated by the Erlandson reference be withdrawn.

Claims 1-3, 6, and 7 stand rejected under 35 U.S.C. §102(b) as being anticipated by the Marino, Jr. et al. reference (U.S. Pat. No. 5,605,230).

Applicant respectfully traverses this rejection because the Marino, Jr. et al. reference does not teach the claimed combination including a container having a side wall that tapers from top to bottom as required in claim 1. Instead, the bottle 12 disclosed in the Marino, Jr. et al. reference has a top portion that extends downward into neck portion 18 which widens through shoulder portion 16 and into cylindrical base portion 14, which extends straight down to the bottom of bottle 12 (See, the Marino Jr., et al. reference at col. 2, lines 22-30, and Figure 1). Such a bottle configuration does not teach

a container that has a side wall that tapers from top to bottom. Moreover, there is no motivation or suggestion to modify the bottle in the Marino Jr., et al. reference to have a side wall that tapers from top to bottom.

Accordingly, Applicant submits that claims 1-3, 6, and 7 are patentable over the Marino Jr., et al. reference and requests that the rejection of these claims under 35 U.S.C. § 102(b) as being anticipated by the Marino Jr., et al. reference be withdrawn.

### **Claim Rejections – 35 U.S.C. § 103**

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Erlandson reference as applied to claim 2 above, and further in view of the Gray, Jr. reference (U.S. Pat. No. 5,489,126).

Applicant respectfully traverses this rejection because the Gray, Jr. reference fails to cure the deficiencies of the Erlandson reference with respect to independent claim 1, from which claim 4 depends.

As discussed above, independent claim 1 is patentable over the Erlandson reference because, e.g., the Erlandson reference fails to teach, motivate, or suggest a container have a side wall that tapers from top to bottom in combination with a shrinkwrap and a feature on the container that helps hold the shrinkwrap on the tapered side wall.

The secondary reference, Gray, Jr., fails to cure the deficiencies of the Erlandson reference because the Gray, Jr. reference does not teach or even relate to a container. The Gray, Jr. reference relates to a pipe fitting (See the Gray, Jr. reference at the Abstract). The pipe fitting disclosed in Figures 1 and 2 of the Gray, Jr. reference is cylindrical with two open ends. It does not have a bottom, a lid, or even a side wall that is tapered from top to bottom, all of which are required in claim 1. Moreover, the Gray, Jr. reference does not even remotely motivate or suggest the deficiencies of the Erlandson reference.

Because claim 1 is patentable over the Erlandson reference in view of the Gray, Jr. reference, this rejection of dependent claim 4 is avoided.

Accordingly, Applicant requests that the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over the Erlandson reference in view of the Gray, Jr. reference be withdrawn.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Erlandson reference as applied to claim 2 above, and further in view of Fillwalk et al. reference (U.S. Pat. No. 3,235,112).

Applicant respectfully traverses this rejection because the Fillwalk et al. reference fails to cure the deficiencies of the Erlandson reference with respect to independent claim 1, from which claim 5 depends.

As discussed above, independent claim 1 is patentable over the Erlandson reference.

The secondary reference, Fillwalk et al., fails to cure the deficiencies of the Erlandson reference because the Fillwalk et al. reference does not teach a container having a side wall that tapers from top to bottom in combination with a shrink wrap and a feature on the container that helps hold the wrap on the tapered wall. The jar type container 10 disclosed in Figure 1 of the Fillwalk reference has a side region that extends generally straight upward from the bottom, then extends into an inwardly extending shoulder portion 11 which terminates in an upwardly opening annular neck portion 12 (See the Fillwalk et al. reference at col. 3, lines 3-6, and FIGS. 1 and 2). Moreover, the Fillwalk et al. reference does not motivate or suggest the deficiencies of the Erlandson reference.

Because claim 1 is patentable over the Erlandson reference in view of the Fillwalk et al. reference, this rejection of dependent claim 5 is avoided.

Accordingly, Applicant requests that the rejection of claim 5 under 35 U.S.C. § 103(a) as being unpatentable over the Erlandson reference in view of the Fillwalk et al. reference be withdrawn.

In view of the above remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance, which allowance is earnestly solicited. In the event that a phone conference between the Examiner and the Applicant's

undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the undersigned as set out below.

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By:

Respectfully Submitted,

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